

#12

PATENT  
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent Application of:	)	<u>Group Art Unit:</u> 2625
Young Su LEE	)	<u>Examiner:</u> S. Azarian
Serial Number: 09/657,573	)	<u>Attorney Docket:</u> LEEY3016beu
Filed: September 8, 2000	)	<u>Confirmation No.:</u> 2704

For: Motion Estimator Architecture For Low Bit Rate Image Communication

REQUEST FOR RECONSIDERATION OF DECISION ON  
PETITION FOR REVIVAL UNDER 37 C.F.R. § 1.137(b)

Honorable Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA. 22313-1450

Sir:

The Applicant respectfully requests reconsideration of the decision dated July 31, 2009, dismissing the renewed petition filed on December 16, 2009.

The reason for dismissal was that Bacon and Thomas, a responsible part in this application, has not provided a sufficient explanation as to what efforts were made to reply and why no reply was filed. Therefore, attached is the declaration of Benjamin E. Urcia (also the undersigned), a member of the firm Bacon & Thomas, PLLC, and the person responsible for prosecution of the above-identified application, explaining why a petition to revive was not submitted after receiving instruction to pay the issue fee on March 10, 2004.

The declaration explains that the issue fee was not paid on March 10, 2004 because the instructions were not received until March 15, 2009, despite having sent numerous reminders to the client, Mr. Jongil Lee. In addition, the declaration explains that no petition to revive was submitted because there were no instructions to revive the application, despite having sent letters to Mr. Lee on March 23, 2004 and July 15, 2005, requesting instructions on whether to incur additional fees to revive the application.


Serial Number 09/657,573

As a result, it is again respectfully submitted that the abandonment of the application for failure to prosecute was an unintentional delay, and that the entire delay in filing the required reply from the due date until the filing of this petition was unintentional.

The required reply, in the form of payment of the issue fee and submission of a completed form PTOL-85, has previously been attached. The petition fee of \$770 has also previously been paid.

Respectfully submitted,

BACON & THOMAS, PLLC



By: BENJAMIN E. URCIA  
Registration No. 33,805

Date: November 30, 2009

BACON & THOMAS, PLLC  
625 Slaters Lane, 4th Floor  
Alexandria, Virginia 22314

Telephone: (703) 683-0500

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re U.S. Patent Application of:	)	<u>Group Art Unit:</u> 2625
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Young Su LEE	)	<u>Examiner:</u> S. Azarian
	)	
Serial Number: 09/657,573	)	<u>Attorney Docket:</u> LEEY3016beu
	)	
Filed: September 8, 2000	)	<u>Confirmation No.:</u> 2704

For: Motion Estimator Architecture For Low Bit Rate Image Communication

DECLARATION OF MR. BENJAMIN E. URCIA IN SUPPORT OF  
PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 C.F.R. § 1.137(b)

Honorable Commissioner For Patents  
P.O. Box 1450  
Alexandria, VA. 22313-1450

Sir:

I, Benjamin Edward Urcia, whose address is 902 N. Greenbrier St., Arlington, VA., 22205, hereby declare that:

1. I am a partner in the firm BACON & THOMAS, PLLC., and was responsible for prosecution of the above-identified application at the time the application became abandoned for failure to pay the issue fee.
2. The above-identified application was permitted to lapse on March 10, 2004, because I had not, as of March 10, 2004, received any instructions to pay the issue fee.
3. The March 10, 2004 instruction letter, together with reminder letters sent on March 9, 2009, is attached hereto as Exhibit A. A date stamp on the March 10, 2004 instruction letter shows that the letter was received in the mail room of Bacon & Thomas on March 10, 2004. However, no acknowledgment was made until March 15, 2004, as indicated by the copy of the instructions in Exhibit A. It is not known why the March 10 instruction letter was not provided to me on March 10, 2009. However, I did not receive,

and had no knowledge of the March 10, 2004 instructions to pay the issue fee. In the absence of instructions to pay an issue fee, my usual practice is not to pay the issue fee unless the client has previously indicated that the fee should be paid in the absence of instructions. If instructions to pay the issue fee had been received by me, I would have paid it.

4. After receiving the copy of the issue fee payment instructions on or subsequent to March 15, 2008, I prepared a letter to the Korean agent, Mr. Jongil Lee, asking whether he wished to file a petition to revive. The letter was faxed on March 23, 2009. A copy of the March 23 letter and fax confirmation is attached as Exhibit B. The reason I sent the March 23, 2009 letter was that I wished to obtain confirmation that Mr. Lee wished to revive the application. Although Mr. Lee's letter of March 10, 2009 shows that he clearly wished to pay the issue fee, it was my practice to obtain confirmation before incurring significant additional expenses, which in this instance involved the \$735 government fee for the petition to revive and a service fee of \$250. In other words, while it was clear that Mr. Lee intended to pay the issue fee, it was not clear that Mr. Lee wished to incur the additional expenses involved in reviving the application, which is why the petition to revive was not filed at this time, and the March 23, 2004 letter was sent instead.
5. In the absence of a reply to the March 23, 2004 letter, I took no further action with respect to this application until receiving Mr. Lee's letter of April 30, 2008, attached hereto as Exhibit C. After retrieving the file, I sent a letter to Mr. Lee on May 30, 2008, informing Mr. Lee that the application had become abandoned. The May 30, 2008 letter is attached hereto as Exhibit D.
6. Mr. Lee sent instructions to revive the application on June 2, 2009. Attached as Exhibit E is a communication sent to Mr. Lee on June 5, 2008, forwarding an advance invoice for filing the Petition to Revive (which was pasted over Mr. Lee's fax of June 2, 2009,

which in turn was hand-written on a copy of my letter of May 30, 2009--see the June 2 date stamp at the top of the fax, and Mr. Lee's hand-written note at the bottom of the fax). The petition to revive was submitted on August 12, 2008.

7. Subsequent to receiving the Decision on Petition dated July 31, 2009, I discovered an additional letter dated July 15, 2005, from Mr. George Chen of Bacon & Thomas, PLLC, asking whether Mr. Lee wished to revive the application. This letter is attached as Exhibit F. The July 15, 2005 letter refers to a letter dated June 17, 2005, but no record of a June 17, 2004, letter has been found. Instead, the June 17 date appears to represent a typographic error, and that the reference should have been to the March 23, 2004, letter. Mr. Chen is a patent agent with Bacon & Thomas who speaks Japanese and Chinese and often handles client relations with Far East clients.
8. The July 15, 2005, letter shows that we were still awaiting instructions to revive the application on July 15, 2005. The sole reason for not reviving the application before receiving Mr. Lee's instructions to revive was the lack of instructions from Mr. Lee indicating whether or not he wished to revive the application.
9. In the absence of any acknowledgment of the July 15, 2005 letter, no further action was taken until April 30, 2008, as described above.
10. In summary, the reason for my failure to take action to revive the application during the entire period from March 11, 2004 to submission of the petition to revive on August 12, 2008, was the failure to receive instructions to pay the issue fee until March 15, 2009, and the subsequent lack of instructions from Mr. Jongil Lee, the Korean agent for the assignee, on whether to revive of the application, despite having sent issue fee payment reminders as late as March 9, 2009, and letters asking whether to file a petition on March 23, 2004 (Exhibit B) and July 15, 2005 (Exhibit F). In the absence of a response to the

Serial Number 09/657,573

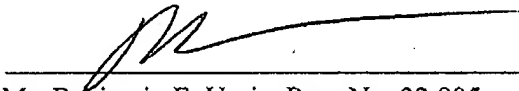
latter two letters, it was not known whether the Applicant desired to attempt a revival, and therefore no petition was filed.

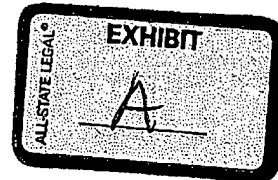
11. As a person signing below:

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that willful false statements and the like so made are punishable by fine or imprisonment or both, under §1001 of Title 18 of the United States code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

November 30, 2009

Date

  
Mr. Benjamin E. Urcia, Reg. No. 33,805



# DAEILPAT®

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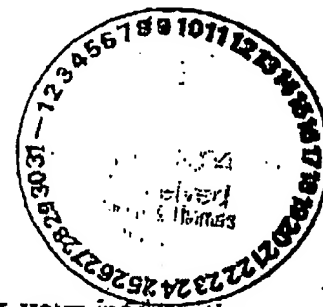
Patent and Trademark Attorney  
Jongil Lee

BACON & THOMAS

Date: March 10, 2004

RE : THE REMITTANCE  
U.S. Patent Application No. 09/657,573  
Inventor : Young Su LEE  
Your Ref: LEEY3016/BEU  
Our Ref : USPBA-00-004

2/3/04



Dear Sir:

Thank you for your fax dated March 09, 2004 regarding your information of remittance.

This is to confirm that we've wired the fees of your invoices March 10 2004, which totally amounts to US\$995.00 as shown below.

Debit date	Invoice No.	Your Ref.	Our Ref.	Amount
Dec 19, 2003	P1036	LEEY3016/BEU	USPBA-00-004	US\$995.00
- Total Amount				US\$995.00

Please pay the Issue/Publication Fee of above - mentioned application.  
And Please acknowledge safe receipt of this letter by return facsimile.

With your best regards,

DAEILPAT Patent & Trademark Attorney JONGIL LEE  
HYEJOON KIM

Date: 3/15/04  
Received \$995.00  
THANK YOU!

*J. Rapp*

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 \*\*\* TX REPORT \*\*\*  
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TRANSMISSION OK

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RESULT	OK

J. ERNEST KENNEY  
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 WENDY PARK  
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\* BAR OTHER THAN VA.  
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**BACON & THOMAS, PLLC**

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**FACSIMILE COMMUNICATION****To:** Mr. Jongil Lee**Date:** March 9, 2004**Fax #:** 011- 82-2-554-3028**Re:** LEEY3016/BEU - 09/657,573 &  
LEEC3047/BEU - 09/912,548**From:** Benjamin E. Urcia/jsh**Total pages:** 7, including cover sheet**Confidential/Privileged**

This communication contains confidential information that is intended to be received and read only by the party named as addressee (listed after "To:" at the left). This communication may contain information that is subject to the attorney/client privilege and/or a court order restricting its dissemination. No one else is entitled to read, use, copy or disseminate this communication or the information contained herein. If you are not the addressee, or the agent of the addressee, then contact us immediately by telephone (collect) or facsimile and arrangements will be made for the return to us of this communication.

Thank you, BACON &amp; THOMAS, PLLC.

**Message:**

Mr. Lee, please be advised we are again faxing herewith copies of our letters dated 12/19/03 along with invoices indicating the total amount due for the issue fee that is due tomorrow 3/10/04. There are no extensions for issue fees. These cases will become ABANDONED if the issue fee is not paid on 3/10/04.

leanette/Ben's secretary



J. ERNEST KENNEY  
EUGENE MAR  
RICHARD E. FICHTER  
THOMAS J. MOORE  
JOSEPH DEBENEDICTIS\*  
BENJAMIN E. URCIA\*  
WONKI PARK\*  
JUSTIN J. CASSELL

GEORGE CHUNG CHIN CHEN†

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## FACSIMILE COMMUNICATION

To: Mr. Jongil Lee

Date: March 9, 2004

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Re: LEEY3016/BEU - 09/657,573 &  
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From: Benjamin E. Urcia/jsh

Total pages: 7, including cover sheet

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Jeanette/Ben's secretary

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GEORGE CHUNG CHIN CHEN :

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## REMINDER

~~December 10, 2003~~

3-9-04

Via Facsimile - 9 Pages  
Confirmation Via Mail

Mr. Jongil Lee  
DAEILPAT  
904 BYC Building, 648-1  
Yeoksam-Dong, Kannam-Gu  
Seoul, 135-080, KOREA

Re: U.S. Patent Application No. 09/657,573  
Inventor: Young Su LEE  
Motion Estimator Architecture For Low Bit  
Rate Image Communication  
Your Ref.: USPBA-00-004  
Our Ref.: LEEY3016/BEU

Dear Mr. Lee:

We are pleased to report that we have received a Notice of Allowance in the above application, indicating the allowance of claims 2-7, as amended by the Response filed in the Patent Office on October 14, 2003. A copy of the Notice of Allowance and Notice of Allowability is enclosed.

The Issue/Publication Fee of \$665 must be paid by:

→ March 10, 2004.

No extension of time is available for payment of the Issue Fee. Our fee for handling all closing activities will be \$995. An invoice is attached for your convenience.

Please note the Reasons for Allowance set forth on page 2 of the Notice of Allowability. Comments on the Reasons for Allowance may be submitted with the Issue Fee payment, but are not required.

We assume that you do not wish to file a continuation or divisional application having the same disclosure and effective filing date as the present application, but claiming aspects of the invention which are not claimed in the present application. If a continuation or divisional application is to be filed, please inform us as soon as possible so that we will have time to file it before payment of the Issue Fee.

Mr. Jongil Lee  
DAEILPAT  
December 19, 2003  
Page 2

Also, please note that the Duty of Disclosure obligations must still be complied with even though the application has been allowed. Therefore, if you become aware of additional relevant prior art at any time before the patent issue date, please contact us immediately.

Finally, please confirm that you are still entitled to claim small entity status for the purpose of paying reduced fees in this application. If the application has been licensed to a large entity, for example, the application is no longer entitled to small entity status. Improper payment of small entity fees may result in the invalidity or lapsing of a patent granted from this application if correction of the erroneous payment is not timely made.

We look forward to receiving your instructions concerning payment of the Issue Fee in due course.

Very truly yours,  
BACON & THOMAS, PLLC



BENJAMIN E. URCIA

BEU/jsh  
Enclosures

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 \*\*\* TX REPORT \*\*\*  
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TRANSMISSION OK

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RESULT	OK

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**REMINDER**~~December 10, 2003~~

~~2-10-04~~  
 3-3-04

**ONLY**  
 Via Facsimile - 9 Pages  
 Confirmation Via Mail

Mr. Jongil Lee  
 DAEILPAT  
 904 BYC Building, 648-1  
 Yeoksam-Dong, Kannam-Gu  
 Seoul, 135-080, KOREA

Re: U.S. Patent Application No. 09/657,573  
 Inventor: Young Su LEE  
 Motion Estimator Architecture For Low Bit  
 Rate Image Communication  
 Your Ref.: USPBA-00-004  
 Our Ref.: LEEY3016/BEU

Dear Mr. Lee:

We are pleased to report that we have received a Notice of Allowance in the above application, indicating the allowance of claims 2-7, as amended by the Response filed in the Patent Office on October 14, 2003. A copy of the Notice of Allowance and Notice of Allowability is enclosed.

\* The Issue/Publication Fee of \$665 must be paid by:

→ March 10, 2004.

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**REMINDER**

~~December 10, 2003~~

~~2-10-04~~  
3-3-04

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Mr. Jongil Lee  
DAEILPAT  
904 BYC Building, 648-1  
Yeoksam-Dong, Kannam-Gu  
Seoul, 135-080, KOREA

Re: U.S. Patent Application No. 09/657,573  
Inventor: Young Su LEE  
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 \*\*\* TX REPORT \*\*\*  
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TRANSMISSION OK

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 904 BYC Building, 64E-1  
 Yeoksam-Dong, Kangnam-Gu  
 Seoul, 135-080, KOREA

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 Your Ref.: USPBA-00-004  
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**REMINDER**

~~December 10, 2003~~

2-10-04

Via Facsimile - 9 Pages  
Confirmation Via Mail

Mr. Jongil Lee  
DAEILPAT  
904 BYC Building, 648-1  
Yeoksam-Dong, Kannam-Gu  
Seoul, 135-080, KOREA

Re: U.S. Patent Application No. 09/657,573  
Inventor: Young Su LEE  
Motion Estimator Architecture For Low Bit  
Rate Image Communication  
Your Ref.: USPBA-00-004  
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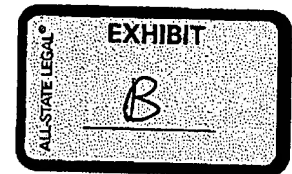
→ **March 10, 2004.**

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 \*\*\* TX REPORT \*\*\*  
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TRANSMISSION OK

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SUBADDRESS	
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GEORGE CHUNG CHIN CHEN :

March 23, 2004

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 † REGISTERED PATENT AGENT

**VIA FACSIMILE - 2 PAGES**  
**Confirmation by Mail**

Mr. Jongil Lee  
 DAEILPAT  
 904 BYC Building, 648-1  
 Yeoksam-Dong, Kannam-Gu  
 Seoul, 135-080, KOREA

Re: U.S. Patent Application No. 09/657,573  
 Inventor: Young Su LEE  
 Motion Estimator Architecture For Low Bit  
 Rate Image Communication  
 Your Ref.: USPBA-00-004  
 Our Ref.: LEEY3016/BEU

Dear Mr. Lee:

Further to our letter of March 9, 2004, the final date to pay the issue fee expired on March 10, 2004. The case will now go abandoned due to failure to pay the issue fee. The retainer was received after the due date.

If this application has been abandoned unintentionally, the case can be revived by filing an appropriate Response, along with a Petition and government fee at a total cost of \$935 in addition to the cost of the issue fee. An invoice for the cost of the petition is enclosed for your convenience.



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BENJAMIN E. URCIA \*  
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GEORGE CHUNG CHIN CHEN :

March 23, 2004

\* BAR OTHER THAN VA  
: REGISTERED PATENT AGENT

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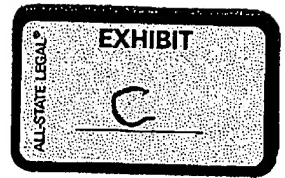
We will forward the Official Notice of Abandonment to you as soon as we receive it. In the meantime, please contact us should you have any questions regarding this matter.

Very truly yours,  
BACON & THOMAS, PLLC



BENJAMIN E. URCIA

BEU/jsh



# DAEILPAT®

904 BYC BUILDING, 648-1, YEOKSAM-DONG, KANNAM-GU, SEOUL, 135-080, KOREA

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[www.daeilpat.co.kr](http://www.daeilpat.co.kr) [leemail@unitel.co.kr](mailto:leemail@unitel.co.kr)

Patent and Trademark Attorney

Jongil Lee

Sungwhan Kim

Jinsuk Jung

By Facsimile

Total 1 page(s)

**BACON & THOMAS**

BENJAMIN E. URICA

April 30, 2008

Re. : Status of US Patent Application No. 09/657,573

Your ref. : LEEY3016/BEU

Our ref. : USPBA-00-004

Title : Motion estimator architecture for low bit...

22

Dear Sir

**RECEIVED**  
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APR 30 2008

CON & THOMAS

*Thank You!*

Thank you for your services.

Please inform the status of the above-identified application as soon as possible.

We have not the patent number and patent letters.

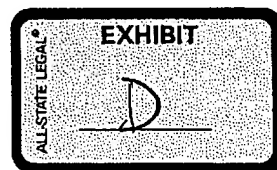
We cannot find the patent number at PAIR of USPTO.

Please find attached the remittance letter.

With best regards,

Patent & Trademark Attorney JONGIL LEE

\*\*\*\*\*  
 \*\*\* TX REPORT \*\*\*  
 \*\*\*\*\*



TRANSMISSION OK

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 PATRICK M. BUECHNER

GEORGE CHUNG CHIN CHEN

\*BAR OTHER THAN VA  
 \*REGISTERED PATENT AGENT

JIM ZEGER  
 OF COUNSEL

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 (703) 683-0884

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May 30, 2008

VIA FACSIMILE  
 1 Page(s)

Mr. Jongil Lee  
 DAEILPAT  
 904 BYC Building, 648-1  
 Yeoksam-Dong, Kannam-Gu  
 Seoul, 135-080, KOREA

Re: U.S. Patent Application No. 09/657,573  
 Inventor: Young Su LEE  
 MOTION ESTIMATOR ARCHITECTURE FOR LOW BIT RATE IMAGE  
 COMMUNICATION  
 Your Ref.: USPBA-00-004  
 Our Ref.: LEEY3016/BEU

Dear Mr. Lee:

This acknowledges receipt of your letter dated April 30 and May 22, 2008.

Our records indicate that the above application has been abandoned because the payment of the issue fee was due March 10, 2004. We did not receive your retainer until March 18, 2004 and therefore sent you a letter on June 17, 2005 and reminder on July 15, 2005 asking for an additional retainer in the amount of \$935 to cover the cost of reviewing the application. In the absence of a response from you, the case went abandoned.

If you wish us to revive the application and pay the issue and publication fees please advise. In addition to the \$995 retainer we have on file, we will need an additional \$985 in order to revive the application.

Very truly yours,  
 BACON & THOMAS, PLLC

LAW OFFICES

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GEORGE CHUNG CHIN CHEN†

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†REGISTERED PATENT AGENT

May 30, 2008

VIA FACSIMILE  
1 Page(s)

Mr. Jongil Lee  
DAEILPAT  
904 BYC Building, 648-1  
Yeoksam-Dong, Kannam-Gu  
Seoul, 135-080, KOREA

Re: U.S. Patent Application No. 09/657,573  
Inventor: Young Su LEE  
MOTION ESTIMATOR ARCHITECTURE FOR LOW BIT RATE IMAGE  
COMMUNICATION  
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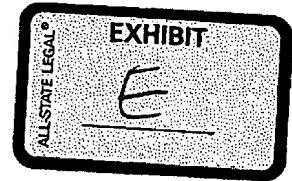
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BENJAMIN E. URCIA

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 \*\*\* TX REPORT \*\*\*  
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P.2 001/001

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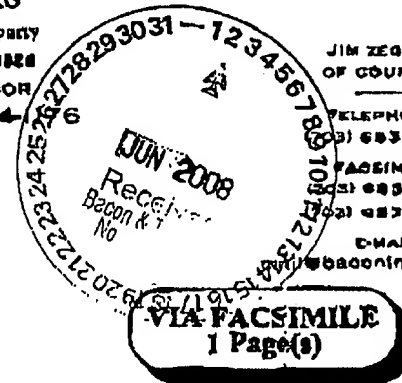
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 PATRICK M. BUECHNER

GEORGE CHUNG CHIN CHEN

\* DAN OTHER THAN VA  
 \* REGISTERED PATENT AGENT

May 30, 2008

JIM ZEEGER  
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Mr. Jongil Lee  
 DAEILPAT  
 804 BYC Building, 648-1  
 Yeoksam-Dong, Kennam-Gu  
 Seoul, 135-080, KOREA

Re: U.S. Patent Application No. 09/857,573  
 Inventor: Young Su LEE  
 MOTION ESTIMATOR ARCHITECTURE FOR LOW BIT RATE IMAGE  
 COMMUNICATION  
 Your Ref.: USPBA-00-004  
 Our Ref.: LEEY3016/BEU

Dear Mr. Lee:

This

of 1  
2

June 5, 2008

Mr. Lee, please find attached the invoice for the remaining balance of \$985 needed to revive the above-identified application.

Thanks.

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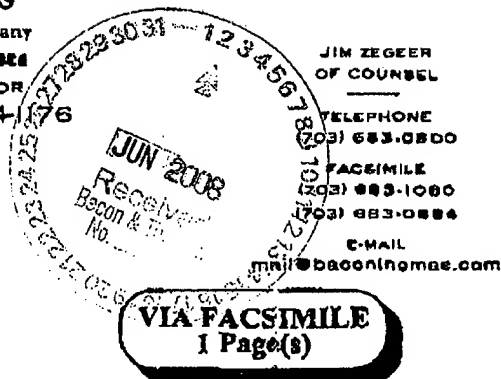
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PATRICK M. BUECHNER

GEORGE CHUNG CHIN CHEN

\*BAR OTHER THAN VA  
\*REGISTERED PATENT AGENT

May 30, 2008



Mr. Jongil Lee  
DAELPAT  
804 BYC Building, 648-1  
Yeoksam-Dong, Kannam-Gu  
Seoul, 135-080, KOREA

Re: U.S. Patent Application No. 09/657,573  
Inventor: Young Su LEE  
**MOTION ESTIMATOR ARCHITECTURE FOR LOW BIT RATE IMAGE COMMUNICATION**  
Your Ref.: USPBA-00-004  
Our Ref.: LEEY3016/BEU

Dear Mr. Lee:

This is

of  
8

June 5, 2008

Mr. Lee, please find attached the invoice for the remaining balance of \$985 needed to revive the above-identified application.

Thanks.

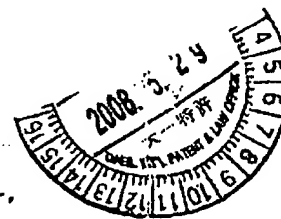
Jeanette (Assistant to B.E. Urcia)

BEU/jsh  
Enclosures

Dear Sir

We want to revive the application.  
please send me the original invoice for the  
additional \$985.

Jongil Lee



TAX ID # 53-0217135

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TO: DAEILPAT  
Mr. Jongil Lee

REF: LEEY3016/BEU  
RE: U.S. Patent Application Serial No. 09/657,573  
Inventor: Young Su LEE  
MOTION ESTIMATOR ARCHITECTURE FOR LOW  
BIT...

DATE: June 05, 2008  
INVOICE NO: P1098  
MATTER NO: 205-035  
YOUR REF: USPBA-00-004

---

### Services

Preparing petition to Revive Application

\$250.00

**Total for Services:**

**\$250.00**

### Expenses *(Inclusive of all administrative and service fees)*

Photocopies (In-House)

\$5.00

Postage

\$5.00

Docketing

\$15.00

Facsimile

\$25.00

U.S. Government Fee(s) - petition to revive application

\$685.00

**Total for Expenses:**

**\$735.00**

**Invoice Total:**

**\$985.00**

DAEILPAT

Matter #: 205-035

Page 2

June 5, 2008

Invoice #: P1098

## Producer & Expense Summary

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### EXPENSE SUMMARY

Expense Code	Expense Description	Amount
6701	U.S. Government Fee(s)	\$685.00
6705	Photocopies (In-House)	\$5.00
6709	Postage	\$5.00
6712	Docketing	\$15.00
6718	Facsimile	\$25.00

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### SERVICE CODE SUMMARY

Service Code	Service Description	Amount
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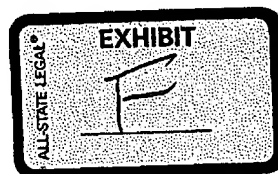
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### PRODUCER SUMMARY

Producer	Total Fees Billed	Total Fees Allocated
BEU	\$250.00	\$250.00



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GEORGE CHUNG CHIN CHEN:

July 15, 2005

\*BAR OTHER THAN VA  
 †REGISTERED PATENT AGENT

Attn: MR Jongil LEE

Via Facsimile - 2 Pages  
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Re: U.S. Patent Application No. 09/657,573  
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July 15, 2005

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George C.C. Chen